

## Message Text

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H-01 INR-07 INT-05 IO-13 JUSE-00 L-03 NSAE-00 NSC-05  
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FM SECSTATE WASHDC

TO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY MOSCOW

AMEMBASSY TOKYO

AMEMBASSY BONN

USMISSION EC BRUSSELS

C O N F I D E N T I A L STATE 296683

E.O. 11652: GDS-3

TAGS: PLOS, UK

SUBJECT: LOS - BRITISH AIDE MEMOIRE ON LOS CONFERENCE AND  
US DOMESTIC SEABED LEGISLATION

REF: STATE 295087

1. UK AMBASSADOR RAMSBOTHAM CALLED ON THE DEPUTY SECRETARY  
DECEMBER 1 ON INSTRUCTIONS TO LEAVE AN AIDE MEMOIRE ON THE  
LAW OF THE SEA CONFERENCE AND US DOMESTIC LEGISLATION ON  
DEEP SEABED MINING. FOLLOWING IS TEXT OF AIDE MEMOIRE.

2. BEGIN TEXT

A) THE UNITED KINGDOM GOVERNMENT HAS BEEN CONSIDERING THE  
OUTCOME OF THE FIFTH SESSION OF THE UNITED NATIONS LAW  
OF THE SEA CONFERENCE AND THE PROSPECTS FOR THE SIXTH  
SESSION.

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B) THE FIFTH SESSION WAS OVERALL A DISAPPOINTMENT. THERE WAS ADMITTEDLY SOME PROGRESS IN SUCH FIELDS AS THE SETTLEMENT OF DISPUTES AND MARINE POLLUTION IN SPECIAL AREAS. WE ALSO CONSIDER THAT AT THE APPROPRIATE TIME IT SHOULD BE POSSIBLE TO FIND SOLUTIONS TO THE PROBLEMS OF THE NATURE OF THE ECONOMIC ZONE AND THE REGIME FOR MARINE SCIENTIFIC RESEARCH. ON THE OTHER HAND THE UK GOVERNMENT GREATLY REGRETTED THE FACT THAT THE DEVELOPING COUNTRIES RETREATED FROM THE PROPOSED INTERNATIONAL SEABED REGIME SET OUT IN THE REVISED SINGLE NEGOTIATING TEXT AND IN PARTICULAR THAT THEY WERE NOT WILLING TO ACCEPT THE PRINCIPLE OF GUARANTEED ACCESS BY STATES AND THEIR COMPANIES TO THE RESOURCES OF THE DEEP SEABED.

C) DR. KISSINGER'S INITIATIVE OF 1 SEPTEMBER MADE AN IMPORTANT NEW CONTRIBUTION. NEITHER THE DEVELOPED NOR THE DEVELOPING COUNTRIES HAD TIME TO CONSIDER THE FULL IMPLICATIONS OF THAT INITIATIVE BEFORE THE END OF THE SESSION.

D) AT THE MOMENT THE PROSPECT FOR THE NEXT SESSION CANNOT BE SAID TO BE GOOD. WHILE SOME OF THE PROBLEMS EXPERIENCED AT THE FIFTH SESSION WERE TEMPORARY ONES, OTHER ARE OF A MORE FUNDAMENTAL AND ENDURING NATURE. NEVERTHELESS THE UNITED KINGDOM GOVERNMENT CONSIDERS THAT BOTH IN THE CONTEXT OF ITS POLICY TOWARDS UNOSCO AND OF WIDER CONSIDERATIONS OF RELATIONS BETWEEN DEVELOPED AND DEVELOPING COUNTRIES IT IS DESIRABLE THAT THE INDUSTRIALIZED COUNTRIES SHOULD MAKE AND BE SEEN TO MAKE A SERIOUS ATTEMPT AT THE NEXT SESSION TO ACHIEVE A BREAKTHROUGH IN THE IMPASSE ON THE INTERNATIONAL SEABED REGIME. FAILURE TO DO SO WOULD CALL INTO QUESTION THE MOTIVATION BEHIND EARLIER INITIATIVES BY DEVELOPED COUNTRIES. THE UK GOVERNMENT ATTACHES VERY GREAT IMPORTANCE TO ESTABLISHING A NEW GENERALLY AGREED LAW OF THE SEA INCLUDING, IF POSSIBLE, AN AGREED REGIME FOR THE EXPLOITATION OF DEEP SEA RESOURCES. IT IS EQUALLY IMPORTANT THAT, IF THE CONFERENCE SHOULD FINALLY FAIL TO AGREE ON A NEW CONVENTION, THE FAILURE SHOULD CLEARLY BE SEEN TO BE THE RESULT OF

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THE INTRANSIGENCE OF THE GROUP OF 77 AND NOT OF THE DEVELOPED COUNTRIES, WHO WITHOUT DOUBT HAVE SHOWN FLEXIBILITY IN THE FACE OF THE DEMANDS OF THE DEVELOPING COUNTRIES

E) IN THIS CONTEXT THE UK GOVERNMENT WOULD LIKE TO REFER TO THE PROSPECT OF CONGRESSIONAL PROPOSALS FOR US UNILATERAL DEEP SEA MINING LEGISLATION. THE UK GOVERNMENT ACCEPTS THAT IT IS INEVITABLE THAT ONE OR MORE SUCH

PROPOSALS WILL BE LAUCHED WHEN CONGRESS REASSEMBLES IN THE NEW YEAR. GIVEN THAT ONE OF THE PROBLEMS OF THE CONFERENCE IS THAT THE DEVELOPING COUNTRIES CONSIDER THAT TIME IS ON THEIR SIDE, THE FACT THAT LEGISLATION IS PROCEEDING THROUGH CONGRESS DURING THE COURSE OF THE CONFERENCE'S NEXT SESSION COULD HELP TO CONCENTRATE THE MINDS OF THE DEVELOPING COUNTRIES ON THE NECESSITY OF REACHING EARLY AGREEMENT ON A GENERALLY ACCEPTABLE PACKAGE, AND IN PARTICULAR ON THE NEED FOR COMPROMISE ON THEIR PART ON THE ISSUE OF DEEP SEA MINING.

F) THE UK GOVERNMENT, HOWEVER, BELIEVES THAT THE ATTITUDE OF THE US ADMINISTRATION TO SUCH CONGRESSIONAL INITIATIVES WILL BE OF KEY IMPORTANCE IN ENSURING THAT THE IMPACT IS PRODUCTIVE RATHER THAN COUNTER-PRODUCTIVE. IF THE US ADMINISTRATION OPENLY SUPPORTS SUCH LEGISLATION FROM THE OUTSET, WE WOULD EXPECT THE DEVELOPING COUNTRIES TO REACT TO THE EFFECT THAT THEY WERE UNWILLING TO NEGOTIATE UNDER DURESS AND BLAME THE USA AND THE INDUSTRIALIZED COUNTRIES IN GENERAL FOR HAVING WROUGHT THE EFFECTIVE BREAKDOWN OF THE CONFERENCE. IF ON THE OTHER HAND THE US ADMINISTRATION TAKES THE LINE BEFORE AND DURING THE NEXT SESSION THAT

(A) UNILATERAL LEGISLATION IN ADVANCE OF THE END OF THE SIXTH SESSION WOULD BE PREMATURE AND UNDESIRABLE IN THAT IT COULD PREJUDICE THE PROSPECTS FOR THE BREAKTHROUGH FOR WHICH THEY INTEND TO WORK, BUT

(B) IF MIGHT HAVE NO OPTION BUT TO SUPPORT SUCH LEGISLATION IF THE SIXTH SESSION ENDED IN AN IMPASSE, WE BELIEVE THAT IT WOULD PROVIDE THE MAXIMUM ENCOURAGEMENT TO THE DEVELOPING COUNTRIES TO ACCEPT THE PRINCIPLE OF GUARANTEED CONFIDENTIAL

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ACCESS. SUCH A LINE WOULD, OF COURSE, NOT PREVENT MEMBERS OF THE US AGENCIES CONCERNED GIVING MEMBERS OF CONGRESS PURELY TECHNICAL ADVICE ON THE DRAFTING AND CONTENTS OF ANY BILLS SO AS TO AVOID THE DANGER OF TECHNICALLY DEFICIENT LEGISLATION BEING ADOPTED BY CONGRESS (WHICH MIGHT WELL BE USEFUL).

G) IF THE ADMINISTRATION WERE TO OFFER TECHNICAL ADVICE TO CONGRESS ON THE DRAFTING OF LEGISLATION IN THE NEAR FUTURE THE UK GOVERNMENT HOPES THAT THE US GOVERNMENT WILL CONSULT IT IN ADVANCE OF GIVING SUCH ADVICE. THE UK GOVERNMENT CONSIDERS THAT SUCH PRIOR CONSULTATION IS PARTICULARLY IMPORTANT IN VIEW OF THE FACT THAT BRITISH COMPANIES ARE PARTICIPATING WITH AMERICAN COMPANIES IN ONE OF THE MAJOR DEEPSEA MINING CONSORTIA. QUITE APART

FROM BROADER POLITICAL CONSIDERATIONS, SERIOUS PRACTICAL PROBLEMS COULD ARISE IF THE US LEGISLATION IN THIS AREA WAS NOT COMPATIBLE WITH ANY LEGISLATION WHICH THE UK MIGHT DECIDE TO ENACT. FOR ITS PART, THE UK IS WILLING TO UNDERTAKE TO HOLD PRIOR CONSULTATIONS WITH THE US GOVERNMENT ON ANY DEEPSEA MINING LEGISLATION IT MIGHT WISH TO INTRODUCE, ALTHOUGH THE UK HAS NO SUCH PLANS AT THE MOMENT.

H) THE UK GOVERNMENT BELIEVES THAT, AS HAS BEEN MADE CLEAR IN EARLIER DRAFT LEGISLATION INTRODUCED IN CONGRESS, ANY SUCH LEGISLATION SHOULD BE OF AN INTERIM NATURE. INSOFAR AS POSSIBLE IT SHOULD REFLECT THE PROVISIONS OF THE RSNT AND IN PARTICULAR SHOULD PROVIDE FOR PAYMENTS TO BE MADE TO THE INTERNATIONAL COMMUNITY ON THE LINES THAT PAYMENTS WOULD BE MADE UNDER THE TREATY TO THE INTERNATIONAL AUTHORITY.

BRITISH EMBASSY  
WASHINGTON  
1 DECEMBER 1976

END TEXT. KISSINGER

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